

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)		
PLAINTIFFS David C. White	DEFENDANTS CitiMortgage, Inc. Lawyers Title Realty			
ATTORNEYS (Firm Name, Address, and Telephone No.) Mitchell Goldstein & Jason Krumbein, Krumbein Consumer Legal Services, Inc., 1650 Willow Lawn Drive, Suite 300, Richmond, VA 23230, 804-673-4358	ATTORNEYS (If Known) Kevin Hildebeidel and Amy Czekala, Morris Hardwick Schneider, PLLC, 9324 West Street, Suite 201, Manassas, VA 20110			
PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee			
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Strip an unsecured lien under 11 U.S.C. 506				
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)				
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; border: none;"> FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input checked="" type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <div style="text-align: center;">(continued next column)</div> </td> <td style="width: 50%; vertical-align: top; border: none;"> FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case) </td> </tr> </table>			FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input checked="" type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <div style="text-align: center;">(continued next column)</div>	FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)
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<input type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23			
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$			
Other Relief Sought				

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR David C. White		BANKRUPTCY CASE NO. 3:09-BK-33543-DOT
DISTRICT IN WHICH CASE IS PENDING Eastern District of Virginia	DIVISION OFFICE Richmond	NAME OF JUDGE C.J. D.O. Tice
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)		
DATE October 9, 2009		PRINT NAME OF ATTORNEY (OR PLAINTIFF) Mitchell P. Goldstein & Jason M. Krumbein

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also complete and file Form 104, the Adversary Proceeding Cover Sheet, *unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

*Per LBR 7003-1, in the EDVA, a properly completed Adversary Proceeding Cover Sheet is required.

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

**In Re: David C. White,
Debtor.**

**Case No. 3:09-BK-33543-DOT
Chapter 13**

**David C. White,
Plaintiff.**

v.

APN: 3:09-AP-_____-DOT

**CitiMortgage, Inc.
Lawyers Title Realty, Trustee,
Defendants.**

**COMPLAINT OF THE DEBTOR PURSUANT TO 11 U.S.C. SECTION 506(a)
AND BANKRUPTCY RULE 3012 TO DETERMINE THE VALUE OF
SECURITY AND CREDITOR'S ALLOWED SECURED CLAIM**

COMES NOW your Plaintiff, by counsel, and for his complaint respectfully represents as follows:

1. This is an action brought by the Plaintiff pursuant to 11 U.S.C. § 506(a) and F.R.Bankr.P. 3012 to determine the value of the interest of the Defendant in the residential real estate of the debtors and determine the amount of the allowed secured claim of the Defendant.

JURISDICTION, VENUE AND CORE PROCEEDING

2. The Plaintiff alleges that this is a core proceeding as that term is defined by 28 U.S.C. § 157(b)(2) in that it concerns claims and matters arising out of the administration of this bankruptcy case and rights duly established under Title 11 of the United States Code and other applicable federal law.

Mitchell P. Goldstein, Esq. VSBN 40613, mgoldstein@krumbein.com
Jason M. Krumbein, Esq. VSBN 43538, jason@krumbein.com
Krumbein Consumer Legal Services, Inc.
1650 Willow Lawn Drive, Suite 300
Richmond, VA 23230
804.673.4358 office, 804.673.4350 fax

3. The Plaintiff further alleges that this Court has both personal and subject matter jurisdiction to hear this case pursuant to 28 U.S.C. § 1334, 28 U.S.C. § 157(b)(2).
4. The Plaintiff further alleges that venue is properly laid in this district pursuant to 28 U.S.C. §1391 (b) and (c).

PARTIES

5. Plaintiff David C. White (hereinafter “Plaintiff”) is a Debtor-in-Bankruptcy pursuant to 11 U.S.C. §101(13).
6. Upon information and belief, defendant, CitiMortgage, Inc. (hereinafter “CitiMortgage”) is a creditor, pursuant to 11 U.S.C. §101(10)(A).
7. Upon information and belief, defendant, CitiMortgage is a New York Corporation, registered with the State Corporation Commission, with a Registered Agent, and may be served at CT Corporation System, 4701 Cox Road, Suite 301, Glen Allen, VA 23060.
8. Upon information and belief, defendant, CitiMortgage is represented by Kevin Hildebeidel and Amy Czekala of Morris|Hardwick|Schneider, PLLC whose address is 9324 West Street, Suite 201, Manassas, VA 20110
9. Upon information and belief, defendant Lawyers Title Realty is the Trustee under a recorded Deed of Trust for defendant CitiMortgage.
10. Upon information and belief, defendant, Lawyers Title Realty is a Virginia Corporation, registered with the State Corporation Commission, with a Registered Agent, and may be served at CT Corporation System, 4701 Cox Road, Suite 301, Glen Allen, VA 23060.

FACTS

10. The Plaintiff commenced this case by filing, on June 3, 2009, a voluntary petition for relief under Chapter 13 of Title 11 of the United States Code, in the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division.

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11. The Plaintiff owns real estate situated in Goochland County, Virginia known as 6688 Tatum Road by way of Deed recorded in the Circuit Court of Goochland County, Virginia as instrument number 06000083. The legal description of that property is as follows:

ALL that certain lot or parcel of land, with improvements thereon and appurtenances thereto belonging, in Templeton Magisterial District, Prince George County, Virginia, containing 13.4 acres, more or less, and identified as Parcel B (circled B) on a plat entitled "FAMILY DIVISION OF TP# 60(A)-4A SITUATED ON S.R. #620, TEMPLETON DISTRICT, PRINCE GEORGE COUNTY, VIRGINIA", drawn by Robert V. Cawthorne, Jr., dated October 1, 2001, a copy of which is recorded with that certain deed recorded June 13, 2002 as Instrument No. 020003208, and to which plat reference is made for a more particular description of the land and then following easement hereby conveyed;

TOGETHER WITH a permanent, nonexclusive easement of right-of-way, 50' wide, for ingress and egress and utilities, extending to and from the above described Parcel B and State Route 620, Tatum Road, as shown on the aforesaid plat.

BEING a portion of the same real estate conveyed to David C White, by deed from C W Lundie Builder, Inc., dated December 30, 2005, recorded in the Clerk's Office, Circuit Court, Prince George County, Virginia simultaneously with this deed of trust.

12. The Defendant is the holder of a promissory note executed by the Plaintiff secured by a Deed of Trust with the Instrument Number 070001843.
- a.) The holder for the Deed of Trust is Citimortgage, Inc., located at 1000 Technology Drive, MS 140. O'Fallon, MO 63304.
- b.) The trustee for the Deed of Trust is Lawyers Title Realty located at 601 Riverside Avenue, Jacksonville, FL 32204.
13. At the time of the Bankruptcy, the principal residence was worth no more than \$176,000.00 (see Exhibit "A") and was subject to a first Deed of Trust with a payoff of approximately \$184,000 (see Exhibit "B") with the Instrument Number 06000084.

Respectfully Submitted,

DAVID C. WHITE

BY COUNSEL: /s/ Mitchell P. Goldstein, Esq.
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mgoldstein@krumbein.com
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Comparative Market Analysis

Prepared Especially for:

David & Jennifer White

908-6975

6688 Tatum Road

Disputanta, VA 23842

EXHIBIT A

Courtesy of:



Joy Harris-Cobb
Harris & Assoc, Inc
23214 Airport St.
Petersburg, VA 23803

Comparative Market Analysis

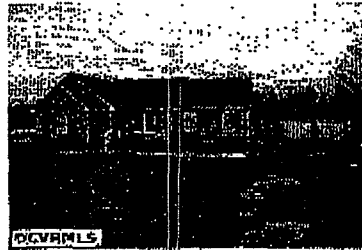
Pending Comparables



	Your Property	#1	Adj #2	Adj
MLS#		2841605	2900636	
Address	6688 Tatum Road	20434 Horseshoe	9255 Jacob	
Pending Date	(none)	4/27/2009	3/20/2009	
Status Date	(none)	4/30/2009	3/23/2009	
Year Built	2005	2004	2008	
Exterior	Vinyl	Vinyl	Vinyl	
Finished SqFt.	1,632	1,512	1,400	
Style	Ranch	Ranch	Ranch	
Bedrooms	3	3	3	
Baths Full	2	2	2	
Baths Half	0	0	0	
Cooling	Central Air	Central Air	Central	
Heating	Heat Pump	Heat Pump	Heat Pump	
Fireplace	No	1	No	
Garage	No	No	No	
Number of Cars	N/A	N/A	N/A	
Acres	5	1.76	5	
Price Per Sq.Ft.		132.21	135.64	
DOM		127	74	
Net Adjustments			0	0
Adjusted Price		169,900		174,900
Notes				

Comparative Market Analysis

Sold Comparables



	Your Property	#3	Adj #4	Adj
MLS#		2829473	2840911	
Address	6688 Tatum Road	9950 Cedar	4418 Tatum	
Pending Date	(none)	12/16/2008	2/4/2009	
Status Date	(none)	1/19/2009	3/10/2009	
Year Built	2005	2001	1987	
Exterior	Vinyl	Vinyl	Cedar	
Finished SqFt.	1,632	1,448	1,421	
Style	Ranch	Ranch	Ranch	
Bedrooms	3	3	3	
Baths Full	2	2	3	
Baths Half	0	0	0	
Cooling	Central Air	Central Air	Central Air	
Heating	Heat Pump	Heat Pump	Heat Pump	
Fireplace	No	No	No	
Garage	No	Yes	No	
Number of Cars	N/A	2.5	N/A	
Acres	5	5	5.528	
Price Per Sq.Ft.		118.78	140.68	
DOM		121	55	
Net Adjustments			0	0
Adjusted Price				

Notes

172,000.

165,900

Comparative Market Analysis

Comparable Price Analysis

Comparable Price Analysis

Low Price
Average Price
High Price

Sales Price

172,000
170,675
174,900

Adjusted Price Analysis

Low Price
Average Price
High Price

Adjusted Sales Price

172,000
170,675
174,900

Suggested List Price

Agent's Suggested List Price

176,000

IN "AS IS" CONDITION, WITH THE NEED FOR THE INTERIOR TO BE REPAINTED, ALL CARPETING REPLACED, LANDSCAPING AND DRIVEWAY WORK - I WOULD RECOMMEND PRICING THE HOUSE AT A MARKET VALUE OF \$165,000.

Payoff Statement Quote

EXHIBIT B

Midland Mortgage Co.

Customer Service Department (800) 654-4566

Payoff Address: 999 NW Grand Blvd Ste 110, Oklahoma City, OK 73118-6077

Monday through Friday, 8:00 A.M. to 5:00 P.M. (Central Time)

Issue Date: 04/16/2009
 Quote Expiration Date: 05/01/09
 Loan #: 52512764
 Mortgagor Name: DAVID C WHITE
 Co-mortgagor Name:
 Property Address: 6688 TATUM RD
 DISPUTANTA, VA 23842-6902

Loan Type: FHA Loan
 Case No.: 5417349437703 THIS IS NOT A LOAN NUMBER
 Next Payment Due:
 This Quote reflects the last payment posted on.

Payoff Subject to Final Audit. The amounts reflected on this Payoff Statement Quote are subject to final verification by Midland. Midland reserves the right to adjust these amounts and refuse any funds which are insufficient to pay the loan in full for any reason, including, but not limited to, an error in calculation of the payoff amount; previously dishonored checks; fees incurred after the Issue Date of this Payoff Statement Quote; or additional disbursements of taxes, insurance, or other escrow items made by Midland after the Issue Date of this Payoff Statement Quote.

----- FUNDS DUE FOR ACCOUNT # 52512764 -----

*See below for definitions of numbered items

1. PRINCIPAL	181903.18
2. INT 03/01/09 TO 05/01/09	2008.52
3. PREPAYMENT FEE/INTEREST	0.00
4. ADVANCES FOR TAXES/INSURANCE	0.00
5. MORTGAGE INSURANCE PREMIUM DUE	154.28
6. OUTSTANDING LATE CHARGES DUE	0.00
7. ANTICIPATED LATE CHARGE	62.15
8. MORTGAGE BALANCE DUE	184128.13
9. FEES ASSESSED WITH PAYOFF QUOTE	5.00
10. FEES REQUIRED WITH PAYOFF FUNDS	31.00
11. OPTIONAL SERVICES DUE	0.00
12. OTHER OUTSTANDING FEES DUE	0.00
----- FUNDS TO BE CREDITED -----	
13. LESS ESCROW FUNDS	154.28
14. TOTAL PAYOFF BALANCE DUE	184009.85

----- ESCROW/IMPOUND REQUIRED -----

05/01/09 FHA 77.14

----- INTEREST CALCULATIONS -----

RATE	FROM	TO	INT. DUE
6.625 0	3/01/09	4/01/09	1004.26
6.625 0	4/01/09	5/01/09	1004.26

----- ANTICIPATED BALANCES -----

15. ESCROW FUNDS	764.00
16. UNAPPLIED FUNDS	0.00

Definitions of Numbered Items

- | | |
|---|---|
| 1. Unpaid Principal Balance due | 9. Expedited Delivery Fee and Payoff Statement Fee, if applicable |
| 2. Interest due; for FHA loans see Section 7, Payoff Instruction Sheet | 10. Fees assessed by the county or other local government office for the recording of release documents and fees incurred for preservation of your property |
| 3. Fee for the privilege to prepay the loan, if applicable | 11. Funds due for optional monthly insurance premium(s) and/or other optional products |
| 4. Funds required for payment of taxes, insurance, and other escrow items, including any funds previously advanced by Midland on mortgagor's behalf (see Escrow/Impound Required, above) | 12. Other unpaid fees previously assessed to the loan |
| 5. Required Mortgage Insurance Premium, if applicable | 13. Funds in escrow account used to pay unpaid escrow items, such as taxes, hazard insurance, and mortgage insurance premium(s), as applicable |
| 6. Unpaid late charges due | 14. Total balance due to pay loan in full; see Section 2 of the Payoff Instruction Sheet for payment options, including wire instructions |
| 7. "Anticipated Late Charge" assumes that certain payments due before the Quote Expiration Date will not be made timely and includes a late charge for: (1) the current monthly payment if it has not posted before the Issue Date of this Quote; and (2) any additional monthly payments due before the Quote Expiration Date; the mortgagor will be refunded part or all of this charge to the extent such monthly payments are made timely | 15. Anticipated balance of escrow funds following possible disbursements for taxes, insurance, or other escrow items |
| 8. Mortgage balance due not including optional products and other fees (subtotal of Items 1 through 7) | 16. Anticipated balance of holding account funds tied directly to the loan |

To receive same day credit and to avoid additional interest, payoff funds must be remitted in U.S. Dollars by cashier's check, certified check, title company check, or wire transfer, and received by Midland at the Payoff Address identified above by 3:00 P.M. (Central Time). Payoffs will not be applied or credited on Saturdays, Sundays, or holidays. Please see Section 2 of the Payoff Instruction Sheet for wire instructions. To ensure timely and proper application of payoff funds, please be sure to indicate "Payoff" on all documents and payments submitted to Midland. In addition, include the mortgagor's name, loan number, and property address with the payoff funds.